IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 9TH NOVEMBER 2006 / 18TH KARTHIKA 1928

Co.Appeal.No. 34 of 2004()

AGAINST THE JUDGEMENT/ORDER IN C.C.5/2002 IN CP.1/2000 Dated 15/03/2004
.....

APPELLANT/ACCUSED:

P.A. SIVADASAN, SOORYAGAYATHIRI
JYOTHISHA NILAYAM, OM SAKTHI NAGAR,
RAMANATHAPURAM, COIMBATORE-45.

BY ADV. SRI.RAJIT

RESPONDENTS: COMPLAINANT:

THE OFFICIAL LIQUIDATOR,
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING SREETHILAKAM CHITS & FINANCE (P) LTD.
(IN LIQUIDATION)

BY ADV. SRI.K.MONI
SRI.RAJITH BABU

THIS COMPANY APPEAL HAVING COME UP FOR ADMISSION ON 09/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & M.N.KRISHNAN, JJ.

CO.APPEAL.NO.34 OF 2004 ()

Dated this the 9th day of November, 2006

J U D G M E N T

KOSHY,J.

The Official liquidator filed a complaint against the accused, the Directors of the company “M/s.Sreethilakam Chits and Finance Pvt.Ltd.” Which was under liquidation for commission of an offence under Section 454(5) of the Companies Act. Appellant is the 1st accused. His wife is the 2nd accused. Provisional Official liquidator was appointed by order dated 19.10.2001. He issued notice in Form No.55 of the Company Court Rules for filing the statement of affairs and the Directors failed to furnish the same without any valid reason. It is the main contention of the accused that they have filed a statement of accounts. But after considering the evidence it was found by the Company Court that the above defense is not true. Appellant was examined as DW2. According to him he went to the liquidator's office and filed statement of accounts.

But he was not having a copy of the same and there is no evidence to show that he has filed the same. Allegations were proved by PW1. Even the bank account details was not given to the official liquidator. The Company court after considering all the contentions and evidence found that the appellant who was the Managing Director was found guilty for the offences under Section 454(5) of the Companies Act and imposed fine of Rs.10,000/-. 2nd accused, his wife was not punished. We fully agree with the reasons given by the Company court. We see no ground to interfere in the order passed by the Company court and hence appeal is dismissed.

J.B.KOSHY, JUDGE

M.N.KRISHNAN, JUDGE

prp

J.B.KOSHY & M.N.KRISHNAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

9th November, 2006